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**TO: Economic Support Supervisors  
Economic Support Lead Workers  
Training Staff  
Child Care Coordinators  
W-2 Agencies  
Workforce Development Boards  
Job Center Leads and Managers**

**FROM: Amy Mendel-Clemens  
Communications Section  
Bureau of Health Care Eligibility**

**BHCE/BWP OPERATIONS MEMO**

**No: 04-15**

**DATE: 03/26/2004**

FS	<input type="checkbox"/>	MA	<input checked="" type="checkbox"/>	SC	<input type="checkbox"/>
CTS	<input type="checkbox"/>	CC	<input type="checkbox"/>	W-2	<input type="checkbox"/>
FSET	<input type="checkbox"/>	EA	<input type="checkbox"/>	CF	<input type="checkbox"/>
JAL	<input type="checkbox"/>	JC	<input type="checkbox"/>	RAP	<input type="checkbox"/>
WIA	<input type="checkbox"/>	WtW	<input type="checkbox"/>		
Other	EP	<input type="checkbox"/>			

**PRIORITY: MEDIUM**

**SUBJECT: Clarification of Pooled Trusts**

**CROSS REFERENCE:** Medicaid Handbook Appendix 11.6.5 and 14.13.3

**EFFECTIVE DATE:** Immediately

**PURPOSE**

This memo is being issued to communicate additional information regarding pooled trusts as a result of recent policy clarifications provided by the US Centers for Medicare and Medicaid Services (CMS).

**BACKGROUND**

The basic Medicaid (MA) policy pertaining to pooled trusts has not changed. They must still be for the sole benefit of a person with a disability and meet the four criteria described later in this memo. The clarification provided here by CMS addresses the definition of the phrase, "sole benefit", and whether or not, homes which were placed in a pooled trust, had to be liquidated upon the death of the individual with a disability, with the proceeds from the sale of the home, used to repay the MA program.

We have determined that a home that was placed in a pooled trust could be occupied by other individuals in addition to the person with a disability, without violating the Medicaid pooled trust sole benefit requirement. Also, upon the death of the disabled individual, the home that was placed in the pooled trust could be retained by the trust as long as another elderly person (age 65 or older) or disabled MA recipient continued to live in that home.

The Wisconsin Initiatives in Sustainable Housing (WISH) is a non-profit organization that attempts to secure long term affordable housing for people with disabilities. They are currently using WISH Housing Trusts as pooled trusts as one means of accomplishing that goal.

## **POLICY**

### **POOLED TRUSTS**

Accounts established in pooled trusts (revocable or irrevocable) are not counted as available assets. It is not a divestment when a person with a disability (or someone acting on his/her behalf) transfers funds into a separate account within the pooled trust (revocable or irrevocable).

Pooled trusts:

1. Are established and managed by a non-profit association. The pooled trust can contain funds that hold accounts funded by third parties for the benefit of the disabled person, or funds that hold accounts funded from the disabled person's own assets or income.
2. Have separate accounts, within each fund, which are maintained for each beneficiary of the trust, but for purposes of investment and management of funds, the trust pools these accounts. There may be a separate fund with accounts that include or benefit persons who do not have a disability.
3. Contain accounts with the funds of disabled individuals (based upon SSI and Medicaid rules) that are established solely for their benefit by a parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court. If the account includes a residential dwelling, the individual must reside in that dwelling, but a spouse, caregiver or housemate can also live there with the MA applicant/recipient.
4. Repay MA to the extent that amounts remaining upon death are not retained by the trust.

This requirement can be satisfied when the individual trust account contains liquid assets and has a balance by returning that amount to the MA program after subtracting a reasonable amount for administrative costs.

This requirement can also be satisfied when the pooled trust account includes real property, and the real property is retained by the pooled trust so long as the property continues to be used by another MA recipient who is disabled (as established under SSI rules) or elderly (age 65 years or older). In addition, if the account contains liquid assets that had been used to help maintain the real property, the account funds may be retained to continue to maintain the housing that will be used by another MA recipient.

**CONTACTS**

BHCE CARES Information & Problem Resolution Center

★Program Categories – FS – Food Stamps, MA – Medicaid, SC – Senior Care, CTS – Caretaker Supplement, CC – Child Care, W-2 – Wisconsin Works, FSET – Food Stamp Employment and Training, CF – Children First, EA – Emergency Assistance, JAL – Job Access Loan, JC - Job Center Programs, RAP – Refugee Assistance Program, WtW – Welfare to Work, WIA – Workforce Investment Act, Other EP – Other Employment Programs.

DHFS/DHCF/BHCE/JU